



September 30, 2015

Shawn M. Garvin
Regional Administrator
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Re: Bloom Energy

Dear Administrator Garvin:

Thank you for providing Bloom Energy's counsel with a copy of your September 8, 2015 letter to Secretary Small of DNREC and for allowing us the opportunity to respond. We understand that, based on the previously provided information, Region 3 disagreed with DNREC's conclusion that Bloom's Desulfurization units must be managed as hazardous waste only after they have been opened, in keeping with the provisions of Delaware law and of RCRA for manufacturing process units (MPUs). While we believe that Secretary Small's conclusion was correct based on the information he had in hand, we want to provide you with additional information relevant to the issue. It is described in detail in the attached letter from our counsel, Michèle Corash.

As explained in the attached, subsequent to Bloom Energy's submission to DNREC, we undertook two significant initiatives which were intended to address some concerns expressed to us by DNREC staff. I believe that these two initiatives are virtually unique among companies seeking to qualify as manufacturing process units under RCRA. More importantly, they directly address the concerns expressed in your letter to Secretary Small.

Bloom's technology -- which is designed to, and does, achieve substantial environmental benefits -- is new and innovative. As such, there has not been a prior occasion for EPA to review it or another technology like it. Nevertheless, as explained in our counsel's letter, it does fall squarely within both the language and the purposes of the MPU exception.

I ask that you consider this additional information and then allow my colleagues and me the opportunity to meet with you personally to discuss this important issue. We are available at your convenience to do so. In light of the important national implications of EPA's determination, we would welcome the chance to talk to your colleagues at EPA Headquarters in that, or a subsequent, meeting.

Most importantly, we ask that with the additional information and whatever additional questions we may be able to answer in person, EPA reconsider the conclusions in your letter to Secretary Small and agree that Bloom's Servers are Manufacturing Process Units which are subject to RCRA hazardous waste regulations at the point where they are opened, and not upon being removed from service.

Thank you in advance for your consideration and for the time that you and your staff have spent on this matter.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Glen Griffiths', with a stylized, cursive script.

Glen Griffiths

cc: The Honorable David Small

Attachment: Letter from Morrison Foerster LLP